

DEPOSITION OF ALVIA LYNN LACY
CONDUCTED ON FRIDAY, OCTOBER 6, 2006

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1 Q This is what you submitted to the EEOC as
2 evidence supporting your claim of harassment and a
3 hostile work environment?

4 A Yes, I did.

5 Q And if you turn to the fifth page, you
6 state I will now list a few incidents which have
7 occurred to me in the past year. So these are the
8 incidents that --

9 A Were in that frame.

10 Q In that time period?

11 A Correct.

12 Q Okay. Now, take a look at those if you
13 would, please. If you look at, I guess the page 5
14 and 6, read through that and tell me whether those
15 accurately reflect, as of the time you filed your
16 charge of discrimination, the things that had
17 happened to you at Bear that you contend were
18 harassment or the creation of a hostile work
19 environment.

20 A Yes, yes.

21 Q And you list -- I guess the easiest thing
22 to do --

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1 A Okay.

2 Q -- if you look at that and compare that to
3 the interrogatory answers --

4 A Okay.

5 Q -- to number 6, interrogatory number 6.

6 A Okay. Misspelling right off the bat.

7 Q That's okay. These are incidents that you
8 attempted to report or reported?

9 A Yes.

10 Q And there's some overlap?

11 A Yes.

12 Q Okay. Let's look at what you submitted to
13 the EEOC, and we can go back and forth if we need to
14 with the --

15 A Okay.

16 Q -- with the --

17 A Interrogatories.

18 Q -- interrogatory answers. Okay. Number 1.
19 While on 24 track, Mr. Koppel became angry of an
20 employee who gave you an item from his refrigerator.
21 Do you see that?

22 A Yes, I do.

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1 Q Tell me what happened. Is the statement
2 here --

3 A Yeah. That's condensed, but that's
4 basically it, but let me tell you what happened. Do
5 you want from beginning to end?

6 Q Let me ask you some questions --

7 A Yeah, ask me.

8 Q -- and it will make it easier that way.

9 A Okay.

10 Q Somebody gave you an item from the
11 refrigerator Mr. Koppel had --

12 A Yes.

13 Q -- correct?

14 A Yes.

15 Q And it was his -- some of his stuff
16 apparently?

17 A Yes.

18 Q But you offered to pay for the item?

19 A Yes.

20 Q And you gave Mr. Koppel a dollar bill?

21 A Yes.

22 Q And then he lit it on fire and said here's

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1 how I feel about your dollar?

2 A Yes.

3 Q And then he asked you if you know what FOAD
4 means?

5 A Yes.

6 Q Then he told you it meant fuck off and die?

7 A Yes.

8 Q Then he walked away?

9 A Yes.

10 Q Now, who is Mr. Koppel?

11 A Mr. Koppel is a co-worker.

12 Q And you went to Mr. Walters and --

13 A Yes.

14 Q -- told him about the incident? Who's Mr.
15 Walters?

16 A Mr. Walters at the time was upper
17 management, like a supervis -- like a
18 superintendent. He was probably under -- I don't
19 know if Mr. McFadden had gotten there yet or not, but
20 he's kind of like mid -- you know, second level.

21 Q Okay. And Mr. Carlton was present?

22 A That's my union rep, yes.

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1 Q And he saw that happen?

2 A Yes, he did.

3 Q And Mike Farmer saw it happen?

4 A Yes, he did.

5 Q Do you think Mr. Koppel reacted that way to
6 you, burning the dollar and asking you if you knew
7 what FOAD meant, because you're an African-American
8 female?

9 A Yes.

10 Q Why? What facts do you have to support the
11 fact -- that allegation?

12 A Because while the incident took place, the
13 statement was made that you know they think all black
14 people steal.

15 Q Now, you didn't put that in your statement
16 to the EEOC.

17 A You know why I didn't put it in there?

18 Q I do not.

19 A Because a lot of times I was afraid that
20 Amtrak would get into this and start really picking
21 on me on the job for telling what's going on in the
22 building. Do you understand what I'm saying?

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1 Q No.

2 A So I kind of left it.

3 Q So you submit something to the EEOC that
4 has what you claim to be a direct -- where you had
5 evidence of a direct racial statement, but you
6 didn't -- you didn't put that in your --

7 A Well, the direct racial statement was if
8 I'm standing here myself, and two Caucasians, and
9 Frannie Koppel says Alvia, do you know what FOAD
10 stands for, he sure wasn't directing it to them.

11 Q Well, that doesn't suggest any racial
12 overtone. If somebody said to you there was a -- who
13 said all black people steal?

14 A The person said you know he thinks all
15 black people steal.

16 Q And who said that?

17 A Bruce Carlton.

18 Q So your union rep said --

19 A You know he thinks --

20 Q -- referring to Mr. Koppel?

21 A -- that black people, yes.

22 Q So it wasn't a statement that all black

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1 people steal? It was Mr. Carlton --

2 A Saying that. See, this is the thing at
3 Bear. If you're racist, you're Caucasian, you know
4 I'm racist, but I might not know it. You understand
5 what I'm saying?

6 Q I do not. I'm sorry.

7 A Okay. I know.

8 Q Let's try that again.

9 A Say, for instance, you don't like black
10 people, okay, and he knows you don't like black
11 people.

12 Q Referring to Mr. Gray?

13 A Yes.

14 Q Using the two of us as an example?

15 A As an example. And I work with you, but I
16 think you're cool, you're all right. I work with
17 you. We get along.

18 Q Because I, the individual who's racist,
19 have hidden from you --

20 A Yes. My true feelings, yes.

21 Q Okay.

22 A Or you may express them when the two of you

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1 are together and I'm not around.

2 Q Okay.

3 A Okay. So now we come up on an incident
4 where something goes down, and you're like -- your
5 mind is probably telling you I don't care who knows
6 that I'm racist, I'm going to put it out there now,
7 because Mr. Koppel actually went in Bruce Carlton's
8 face and screamed at him. He actually went in
9 Farmer's face and told him step outside, and I'll
10 beat your ass.

11 Q Now, is Mr. Carlton black or white?

12 A He's white.

13 Q And how about Mr. Farmer?

14 A He's also white. And Mr. Koppel's white.

15 Q Now, the second incident. A co-worker told
16 Mr. Gill he couldn't work with me, and I was a
17 problem for him. The co-worker is white. Who was
18 the co-worker?

19 A Jerry White. Isn't that appropriate?

20 Anyway --

21 Q And how do you -- why do you think that
22 that reflects that he was making that statement

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1 because of your race or sex?

2 A Okay. Two years prior to that, Jerry White
3 called Ladoris Wiggs an f'n bitch, and it was
4 documented.

5 Q Okay.

6 A Okay? So --

7 Q Any other reason why you think that comment
8 that he said he couldn't work with you was based on
9 your race or sex?

10 A Well, when you watch a person interact in
11 the work environment, and they don't do a lot with
12 people that are not of their race -- not to say that
13 that's a definite given -- or if they make statements
14 that are derogatory towards a certain race, then you
15 kind of think that they have some issues with that
16 particular sector of people.

17 Q And the employee that you're referring to
18 here two years before he told Mr. Gill he couldn't
19 work with you --

20 A Yes.

21 Q -- had called Ms. Wiggs an f'n bitch?

22 A Not f'n. Fucking bitch.

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1 Q Okay. Well, I didn't --

2 A Yeah, I didn't want to --

3 Q Well, okay. Called her a fucking bitch.

4 A It's a little difference though, you know?

5 Q No, no, no. All right. That's fine.

6 Well, let's clarify that because you --

7 A Yes.

8 Q -- you had said f'n.

9 A Yeah. I didn't want to cuss.

10 Q That's okay. We need to clarify --

11 A Okay.

12 Q -- exactly what's going on here.

13 A Okay.

14 Q So let's try again. There's an individual
15 who tells Mr. Gill he couldn't work with you. How
16 did you learn about that?

17 A Okay. That was when I'm -- okay. When
18 you're an airbrake person, you have to have a pipe
19 fitter with you because what you're doing is you're
20 sealing that car up to meet the standards for the
21 airbrakes to work. Okay? Now, as a car repairman, I
22 may put a J16 valve on, however, the piping to it may

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1 be cracked or have a leak in it, so therefore, I have
2 to go to my pipe fitter, and he has to repair it. So
3 they kind of work together.

4 Q Was Mr. White a pipe fitter?

5 A Yes. And he was assigned to me.

6 Q And how did you learn that he told Mr. Gill
7 he couldn't work with you?

8 A Okay. The way I do my airbrake, like, say
9 for instance, they --

10 Q I'm sorry. Just answer my question. How
11 did you find out that he told Mr. Gill he couldn't
12 work with you?

13 A I was standing there.

14 Q Did someone tell you that? Okay.

15 A I was standing there.

16 Q So you heard him say that?

17 A Yeah.

18 Q See, that's easy.

19 A Oh, I'm sorry.

20 Q That's an easy answer.

21 A Okay.

22 Q No, no, no. That's okay.

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1 A Okay. I thought I stated that. I don't
2 know. Okay.

3 Q That's okay.

4 A Yeah.

5 Q Again we can take a break if you want.

6 A I'm all right. I'm all right.

7 Q You say -- let's start again with this.

8 Number 2. A co-worker told Mr. Gill he couldn't work
9 with me, and I was a problem for him. The co-worker
10 is white.

11 A Yes.

12 Q The co-worker was Mr. White?

13 A Yes.

14 Q You contend that was harassment or a
15 hostile work environment?

16 A Well, the incident that followed with
17 that. Okay? So he said I can't work with her, and
18 I'm not going to, and he walked away. I'm trying to
19 test my car. I go to Mr. Gill and say look, he said
20 he can't work with me, then give me a pipe fitter.
21 Okay? And he says all right, Alvia, I'll see what I
22 can do. I go back. I do some more work on the car.

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1 An hour passes. I go back to Mr. Gill. I said Mr.
2 Gill, where's my pipe fitter, or who are you going to
3 give me? He says goddamn it. What do you want me to
4 do? Why don't you just go home, and I'll do your
5 fucking job. Those are his exact words. Now, is
6 that a hostile work environment? To me it is because
7 I'm going to my supervisor asking him to give me the
8 person that's supposed to help me get my job done,
9 and it hasn't been done.

10 Q So do you contend that Mr. Gill's comment
11 to you was harassment because of your sex or race?

12 A I can't define why Mr. Gill talked to me
13 like that. All I know is it's inappropriate, and to
14 me it's harassment, and it's a hostile work
15 environment. Who wants to go to work every day, and
16 you're getting cussed at, and you're trying to do
17 your job?

18 Q Would you say that you hear cussing going
19 on --

20 A Yeah.

21 Q -- at the Bear facility?

22 A It's nothing for people to disrespect you

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1 in there, you know. Get up off your fat ass. They
2 don't -- nothing's done. Nobody --

3 Q Do they behave that way toward other
4 people, or is it just you?

5 A I don't know. I know I express myself.
6 When something happens, I go over and tell someone
7 can you do something about it? This happened to me.
8 Other people, I don't know. Maybe they beat them up
9 after work, I don't know, but I know what I do.

10 Q And then as a result of what you do, you
11 sometimes have people say things in response that you
12 perceive to be inappropriate?

13 A Yes.

14 Q Number 3. This is the hourly employees
15 punching in or not punching in.

16 A Okay.

17 Q Okay. Now, that was the incident involving
18 attendance?

19 A Yes. Okay. You might not want to hear
20 this, but I got to tell it like it has to be told.

21 Q I want you to tell me the truth, and I want
22 --

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1 A And that's what I'm going to do.

2 Q -- you to tell me fully the allegations
3 that you're raising --

4 A Okay.

5 Q -- that you think support your lawsuit.

6 A Okay. First of all, Amtrak's policy at
7 Bear is if you receive three occurrences in 30 days,
8 you get a letter, and then there's a process. It's a
9 letter, then a -- well, it's supposed to be verbal
10 warning, then a letter, then two days off or so
11 forth. It's like a five-step process. Okay. Now,
12 the way it usually works is -- now, I had issues with
13 this because I, as an hourly wage employee, you come
14 to work, you punch in. When you leave, you punch
15 out. You get paid for the hours listed. Okay? Now,
16 there's hourly wage employees who don't have to punch
17 in. They can come at 7:30, they can come at 8:00
18 o'clock, they can come at 7:10, and they're never
19 going to be listed as late. Okay? I have to punch
20 in. I'm in that group of people that have to follow
21 the rules. Okay? So I come to work, and I don't
22 have a problem with it. I'm supposed to punch in,

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1 and I punch in. Now, what normally happens is an
2 unexcused absence is something where you say well, I
3 got up, and I didn't want to come in, and I'm late.
4 That's unexcusable. If you have a doctor's notice,
5 or if you have jury -- in other words, there's a
6 paper that Amtrak has, and it has all these codes for
7 different occurrences and whether or not they are
8 acceptable. What has happened to me is I kept
9 getting letters, or I'd get called in and say Alvia,
10 you were late on Thursday, and then Friday two weeks
11 later you left early. I say okay, that's a doctor's
12 appointment, I have documentation for that, so that's
13 not three occurrences. So what they would do is they
14 would say well, okay. Well, you bring the doctor's
15 note in, and I'll pull it, you know, I'll reverse it.
16 So I bring a doctor's note in that I probably already
17 brought in and gave to the foreman. They're like
18 okay. Well, don't worry about it. I shouldn't have
19 issued it. But it's in my file. Okay? Now, I put
20 in for a job in Washington or Phillie, and they call
21 and say we're going to interview Ms. Lacy. Can you
22 pull her file? What's in it? They pull my file, and

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1 they say oh, she just got a letter for her
2 attendance. Can't consider her.

3 Q Now, do you know that happens?

4 A I know it happens.

5 Q How do you know that happens?

6 A And I know it happens because I have a
7 copy, even right here, where they were copying my --
8 here's a copy of my time card for every day that I
9 was on the foreman's program, and this is something
10 they don't do to anybody.

11 Q And we're talking about 2004 and 2005.

12 A Yes. Well, this is going back to the --

13 Q I want to focus on 2004 and 2005.

14 A Okay.

15 Q Let me show you a document. Maybe this
16 will help us move along.

17 (Lacy Deposition Exhibit 10 marked for
18 identification and attached to transcript.)

19 BY MR. VANDEUSEN:

20 Q Let me show you this document, Exhibit
21 10 --

22 A Yes.

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1 Q -- your time card. Is that the kind of
2 situation you're referring to with respect to
3 attendance?

4 A Yes.

5 Q All right. Three occurrences in 30 days --

6 A Yes.

7 Q -- gets you a attendance policy --

8 A Yeah. This --

9 Q -- warning?

10 A Yeah. This is a written. It says written.
11 So that means I'm on step 2, and I probably said
12 where's step 1? So do you have step 1?

13 Q Well, I'm just showing you the document
14 that I have here.

15 A Okay.

16 Q And there's a time card attached to it,
17 right?

18 A Yes.

19 Q And you refused to sign this document?

20 A Yes.

21 Q And you received it on the 28th of April?

22 A Yes.

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1 Q Now, let me show you a document we're going
2 to mark as 11.

3 (Lacy Deposition Exhibit 11 marked for
4 identification and attached to transcript.)

5 BY MR. VANDEUSEN:

6 Q All right. Let me show you a document
7 marked as Exhibit 11. You complained about this
8 written warning?

9 A No.

10 Q No?

11 A Okay. Wait a minute. Okay. Go ahead. I
12 thought you were going to take an old paper and
13 say -- go ahead.

14 Q No, no, no. I'm trying to --

15 A Okay.

16 Q But I appreciate your looking to make
17 sure --

18 A Yeah, I'm looking.

19 Q -- I'm doing it right.

20 A Yeah, okay.

21 Q So you receive a written warning?

22 A Yes.

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1 Q On April 28th of 2004?

2 A Okay.

3 Q And you refuse to sign it?

4 A Yes.

5 Q Because you have concerns about whether
6 it's appropriate?

7 A I had a doctor's note for that day, yes.

8 Q Okay.

9 A Okay. Go ahead. I'm listening.

10 Q Well, I want to have your full undivided
11 attention.

12 A Okay. Because I'm going to pull out
13 something that they used the same letter twice, but
14 go ahead.

15 Q Hold on. I'll give you an opportunity.

16 A Okay.

17 Q You complain about this because you don't
18 think it's appropriate, the letter that was Exhibit
19 10, the warning?

20 A Yes.

21 Q And you did that to the business diversity
22 department, right, the dispute resolution office?

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1 A When I contacted them -- let me say this
2 for the record. When I contacted them, I initially
3 called diversity, and I said there's a problem here.
4 And my problem was it was not discriminatory. My
5 problem was that people are allowed -- are forced to
6 punch in, and some are not, and I wanted them to
7 address that. I did not make it a racial issue.

8 Q Okay.

9 A Okay.

10 Q So just to be clear, that's the memo that
11 you see on Exhibit 11, right, and then if you turn to
12 the second page of Exhibit 11, the letter that you
13 got from the business diversity department about this
14 complaint? This all relates to the same written
15 warning that was Exhibit 10, correct?

16 A Yes. Now, this right here was not given to
17 me. This one that you're showing, the memo to
18 Jonathan Klein --

19 Q I understand that.

20 A -- that's not me. I didn't see that. I
21 got this in the mail.

22 Q I understand that.

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1 A This is all I got. Okay.

2 Q I understand that.

3 A Okay.

4 Q I'm making sure we're all talking about the
5 same --

6 A Okay.

7 Q -- incident.

8 A Because that's the first time I saw that.
9 Okay. But it is the same incident. Okay.

10 Q And that's what we were referring to, and
11 that's what you were referring to in your statement
12 to the EEOC about hourly employees not required to
13 punch in, and others must, some do, and some don't --

14 A Okay.

15 Q -- is that correct?

16 A I was referring to the ongoing all the
17 time, all the time. That was the one that I listed,
18 but it's ongoing, and it's always. That's not just
19 one incident.

20 Q I understand that.

21 A Okay.

22 Q I understand what you're saying.

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1 A Okay.

2 Q I just want to make sure I'm clear.

3 A Yes.

4 Q In your submission to the EEOC the example
5 you were giving --

6 A Was that.

7 Q -- involved which is those documents that
8 we have in Exhibit 10 and Exhibit 11?

9 A Yes.

10 Q Okay. Thank you.

11 A Okay.

12 Q Now, as a result of that concern that you
13 raised, you were told in Exhibit 11 that Mr. Klein
14 was going to look into this. See that in the last
15 paragraph of Exhibit 11 on the second page?

16 A Yes. This is the letter that I received.

17 Q Right.

18 A Uh-huh.

19 Q And who is Mr. Klein?

20 A Mr. Klein at the time was the chief
21 mechanical officer.

22 Q And he would be at Bear?

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1 A No. He would be in Wilmington.

2 Q In Wilmington?

3 A Yes.

4 Q Okay. But he would be responsible for
5 looking into --

6 A The matter.

7 Q -- the matter?

8 A Yes.

9 Q That's what they told you?

10 A Yes.

11 Q And then according to --

12 A Interrogatory you mean?

13 Q Well, your interrogatory and the deposition
14 exhibit that you submitted to the EEOC. What is
15 that, 9? Yeah. According to Exhibit 9 where you
16 were listing all the things that had happened on page
17 6, that's when obviously somebody did look into these
18 things because then there were individuals who were
19 angry about being required to punch their time cards;
20 is that correct?

21 A That's correct.

22 Q And is that where there was the --

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1 A The little rat.

2 Q -- little rat? There's a fat letter
3 writing rat watching you punch your time card?

4 A Yes, it was.

5 Q And you thought that referred to you?

6 A It did. It was on my airbrake cart.
7 Everybody has their own airbrake. It was on mine. I
8 went to lunch, and someone taped it on my airbrake
9 cart.

10 Q Did you see it anywhere else?

11 A No, I didn't. And when I received that, I
12 went upstairs, and there's -- upstairs is where Mr.
13 McDowell's office is. Mr. Waters' office is there.
14 It's the administrative part of the facility of part
15 of it. And I went upstairs, and there's a room
16 where the two people that are hourly wage employees
17 who are car -- well, one's a car repairman, and one's
18 a electrician, and he's pretty computer savvy, he's
19 pretty good. Now, I'm not saying he did, but I
20 thought it may have came from his computer. So I
21 went upstairs, and I knocked on the door, and when I
22 went inside, Fred Dutton was sitting there, who was a

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1 foreman, Mike Skinner, Sport -- we call him Sport --
2 Ace McDowell, and a guy they call Skaddy was sitting
3 there. And I took the picture of the rat, and I said
4 does anybody -- has anybody seen this? I went just
5 like this. Does anybody know where this came from?
6 And they all looked at me like -- so I said nobody
7 knows where it came from? Nobody's seen this? Okay.
8 Thanks. Went downstairs, went back to work. By the
9 end of the day I was like you know what? Ace didn't
10 say oh, what happened, where did it come from?
11 Nothing. He just sat there. So I said well, let me
12 go find Mr. Waters. I punch out. I go upstairs. I
13 find -- go in Mr. Waters' office. He's sitting
14 there. I said Mr. Waters, I'm getting ready to go
15 home, but I want you to know this was left by my
16 airbrake cart today. And he said oh, my God. He
17 said Alvia, I'll look into it. I'll find out who did
18 this. And I said fine, and I left and went home.

19 Q Did anything further happen with respect to
20 that?

21 A Nothing. Nothing.

22 Q So the people who you asked, they all said

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1 they hadn't seen -- or they suggested they had not
2 seen that rat?

3 A Well, they didn't say they did, and they
4 didn't say they didn't. They just sat there with
5 blank faces.

6 Q It was not posted anywhere as far as you
7 know other than on your own cart?

8 A No, it wasn't posted anywhere else because
9 I even went to my co-worker Mike Curtis. And he's on
10 26 track -- I mean 28 track. And I said look, did
11 you see this? And he went fat letter writing -- he
12 said who's that supposed to be? That's you. Excuse
13 me.

14 Q Well, I'm glad you find it humorous.

15 A I didn't at the time, but, you know --

16 Q Years go by. Let me ask you why -- you've
17 suggested to me that if you see something that you
18 think is inappropriate, you do not hesitate to raise
19 it.

20 A Yes.

21 Q This would be an example of that?

22 A Yes.

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1 Q And as a result, some of your co-workers
2 have found it difficult to like you? Would that be
3 a --

4 A That would be true. Some have found it
5 difficult to like me, and some of them love me. Kind
6 of works both ways.

7 Q Understood. But there are some who --
8 because you stand up for what you think should be
9 done or not done, and you make those thoughts known
10 to management, some co-workers don't like that so
11 much?

12 A I think you're right. I would say you're
13 right.

14 Q That's what your -- that's what your --

15 A Yes.

16 Q I'm not testifying.

17 A Oh, yes.

18 Q I'm sorry.

19 A I don't know what I need to say to let you
20 know yes.

21 Q Here's what I'm trying to do. I'm trying
22 to make sure that I get a clear question out, and an

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1 answer, because it makes it easier later if we have
2 to use the transcript, whether at trial or some
3 place --

4 A Okay.

5 Q -- for that. So that's what I'm trying to
6 ask. So do you think that those co-workers who don't
7 like you don't like you because you call things to
8 the attention of management where they're trying to
9 get away with stuff or not punch in or that kind of
10 thing?

11 A Yes. And I'm also going to add not just
12 the co-workers, but management also. They don't like
13 me to speak on those issues.

14 Q You rock the boat?

15 A Yeah. I don't do it purposely. If
16 everything's fine, it's okay.

17 Q But if you think something's not fine --

18 A Why would you put blinders on? I don't
19 understand it.

20 Q Do you do that regardless of whether you
21 think it's based on a racial issue or a gender issue?

22 A It's a right or wrong. That's the only --

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1 Q Regardless of --

2 A Yeah.

3 Q -- whether it has to do with race?

4 A I don't use race for any -- I use it --
5 when I see it's race, it's a race issue. I don't
6 just pick the race card. I'm not one of those that
7 throw the race card out.

8 Q You'll raise whatever issue you think is
9 inappropriate?

10 A Yes.

11 Q Is it correct for me to say if you think
12 something's not appropriate, regardless of what the
13 reason is, whether it's race or sex or just it's just
14 not appropriate, I don't like it --

15 A Okay.

16 Q -- you're going to raise that issue?

17 A Yes.

18 Q And you do raise that issue?

19 A Yes, I do.

20 Q And as a result, you believe, it's your
21 testimony, there are people who don't like you --

22 A True.

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1 Q -- because you rock the boat?

2 A Yes.

3 Q Some co-workers?

4 A Yes.

5 Q And some members of management?

6 A Yes.

7 Q Does that clear --

8 A That's perfect. That's perfect.

9 Q Who told you to get up off your fat ass?

10 A That would be Mr. Benson, Bill Benson.

11 Q When did that occur?

12 A That occurred -- that's out of the time
13 frame. That was one of the incidents that I listed.

14 Q That was before 2004?

15 A Yes. We were making car moves.

16 Q That's fine. If you'd turn back to the
17 interrogatory answers.

18 A Can I make one point before we go on about
19 these notice -- this notice here --

20 Q Sure.

21 A -- the whole attendance thing?

22 Q Referring to Exhibit 10.

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1 A Okay. I just lost my train of thought. It
2 lost me.

3 Q Okay. Well, maybe it will come back. If
4 it does --

5 A Okay.

6 Q -- we can address that. Let's turn to
7 interrogatory number 18, page 11 of your answers at
8 the bottom. Do you see that?

9 A Yes, I do.

10 Q Now, Ms. Lacy, you list a number of
11 individuals here who you contend will give you a
12 written or oral statement concerning the issues in
13 this case. Who is M. Sheridan?

14 A That's Mr. Michael Sheridan. He was a
15 foreman at Bear at one time.

16 Q Where is he now?

17 A He works for a law firm. I don't know if
18 he's an investigator or an actual, you know, member
19 of the law office.

20 Q Do you know what the name of firm is?

21 A No, I don't, not right off.

22 Q When was the last time you spoke with Mr.

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1 Sheridan?

2 A About probably three months ago. Every
3 once in awhile I'll either call him, or he'll call
4 me. And I'll say how you doing, Mike? He was a good
5 foreman, he was a very good foreman, but they don't
6 like that.

7 Q When did he leave Amtrak?

8 A I don't know what year exactly.

9 Q Was it before 2004?

10 A Yes, yes, it was before 2004.

11 Q So would he have had any direct knowledge
12 of events that happened to you at Amtrak from January
13 of 2004 forward?

14 A No.

15 Q Who is J. Riley?

16 A That's our union president, James Riley.

17 Q Okay. Current union president?

18 A Yes.

19 Q What's his race?

20 A Caucasian. Mr. Sheridan is also Caucasian
21 for the record.

22 Q Okay. And Mr. Carlton we talked about.

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1 A Yes. He's a Caucasian. He's our union
2 vice president.

3 Q And Ladoris Wiggs we talked about.

4 A Yes.

5 Q Who is Ms. Brown?

6 A She's also a co-worker. She works in
7 material control. She's an African-American.

8 Q Now?

9 A Yes.

10 Q So she's another African-American working
11 in --

12 A The Bear facility.

13 Q -- Bear facility?

14 A Yes.

15 Q African-American female?

16 A Yes.

17 Q Just approximate if you can. How many
18 African-American females do you think are working in
19 the Bear facility?

20 A I'm going to push it and say maybe 25 or
21 30. That's counting material control and car
22 repairmanwise.

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1 Q Let me go back to the letter of warning
2 there.

3 A Yes.

4 Q When you got that, did you lose any pay --

5 A Yes.

6 Q -- in getting that letter?

7 A The 72 minutes, the four hours, and the
8 eight hours.

9 Q Because you weren't there?

10 A Right. That's what I wanted to say. Okay.

11 Q I'm sorry.

12 A I got my --

13 Q You weren't paid --

14 A -- back.

15 Q You weren't paid for the time you weren't
16 there?

17 A Right. That's -- you don't get -- yeah.

18 Q That's usually the way it works when you
19 work by the hour, right?

20 A Right.

21 Q You don't work, you don't get paid?

22 A Get paid.

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1 Q Your contention was that the eight hours
2 that you missed on April 7th was for a doctor's
3 appointment?

4 A No. The four hours, because normally
5 like --

6 Q On the 5th?

7 A -- if you have -- if you have -- if I get a
8 doctor's appointment, the latest I can get it is like
9 1:00 o'clock or 2:00 o'clock. So I go to work, and I
10 try to leave myself, I might leave at 11:00 or 12:00,
11 time to get home, take a shower and go to the
12 doctor's appointment. So I'm going to lose some
13 time. I don't -- I can't afford to lose a whole day
14 because we don't have sick leave. So what happened
15 was that was a doctor's appointment, and had it been
16 listed as excused, it wouldn't have come as -- came
17 up as three occurrences in 30 days. Now, what
18 happened was Mr. Butler came to the conclusion that
19 no -- according to Mr. Gill, no excuse was excusable.
20 And I said Rosie, it's a doctor's appointment.
21 That's excusable. No. According to Mr. Butler,
22 there's no excuses. So now if you don't have any

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1 excuses, you're going to get occurrences.

2 Q Right. And did you challenge this through
3 your union?

4 A Yes, I did. And that's why I refused to
5 sign this.

6 Q Okay. Well, hold on. You challenged it
7 through the union?

8 A I probably went to Bruce. I can't -- I
9 have to go back and look at my paperwork.

10 Q Do you recall now whether you challenged it
11 through your union?

12 A I don't know, but I know I challenged them
13 twice. Okay.

14 Q Do you recall whether it was rectified
15 or -- and you were paid for those four hours, and the
16 warning was dropped --

17 A Oh --

18 Q -- or not?

19 A -- never. I ain't never got paid for no
20 lost time.

21 Q So even if you went to your union and tried
22 to say I don't think this was appropriate, you

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1 weren't satisfied with what had happened?

2 A Okay. When I -- in this incident had he
3 said okay, I don't -- I don't have a problem with not
4 being there for four hours and not getting paid.
5 Don't get me wrong. I don't have a -- I wasn't
6 there, but my point is that had you given me
7 excusable absence from my doctor's note, this
8 wouldn't be a warning letter.

9 Q And your concern was that some people --

10 A Right.

11 Q -- again some people can not have to worry
12 about it, and they're not going to get a warning
13 letter?

14 A Right.

15 Q You and other people who they don't like --

16 A Have to.

17 Q -- have to get, and are going to get, the
18 warning?

19 A Correct.

20 Q Again it's who they like?

21 A Who they don't like.

22 Q Who they don't like?

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1 A Who's on the you can list and who's not on
2 the -- yes.

3 Q I'm sorry. On the what list?

4 A We call it you can, and you can't.

5 Q Oh, I see. You can do it, or you --

6 A Yeah.

7 Q -- can't do it?

8 A Yes.

9 Q I understand. Ms. Brown, we talked about
10 her.

11 A Yes.

12 MR. VANDEUSEN: I would like to take a
13 break for about five minutes or so. Would that be
14 okay with you?

15 THE WITNESS: Sure.

16 (Recess 12:35 P.M. to 1:15 P.M.)

17 BY MR. VANDEUSEN:

18 Q Ms. Lacy, before we took a lunch break, we
19 were talking about a variety of things, and I'm going
20 to spend a little more time doing that, and then
21 we'll talk about the promotion issues.

22 A Okay.

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1 Q If you would go back and look at Exhibit 7
2 I think, the interrogatory answers. I think you may
3 have those right there in front of you.

4 A Yes. That's where we're at now. Okay.

5 Q And look at page 7, interrogatory 6 --

6 A Yes.

7 Q -- your response there. We talked about
8 the issue with a co-worker telling you to get up off
9 your fat ass. Then there's a second incident here
10 you say where a co-worker made a racial comment while
11 in line to punch time cards. When did that occur?

12 A I want to say 2004, around that time. It
13 might have been 2003. I'm not sure of the time
14 frame.

15 Q Who was the co-worker?

16 A The co-frame was -- co-worker was an
17 employee named Zigcraft. We call him Ziggy. And
18 that should be documented through diversity because
19 they came down, they did investigate it, because they
20 called me in for a statement.

21 Q Did the co-worker make a racial comment to
22 you?

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1 A Okay. What happened was we were in the
2 line to punch out.

3 Q Well, can you just answer yes or no?

4 A He made it to Ladoris, yes.

5 Q And did Ladoris file a complaint?

6 A Yes, she did. Yes, she did.

7 Q And business diversity came down and --

8 A Yes.

9 Q -- investigated it?

10 A Yes.

11 Q And do you know whether Ziggy was
12 disciplined in any way?

13 A Not that I know of. He didn't lose any
14 time off, so --

15 Q Do you know what happened to him as a
16 result of the --

17 A From what I know, nothing, nothing
18 happened. They found no probable cause or
19 something. I don't know.

20 Q But it wasn't directed to you, the comment?

21 A Well, when he said it, I was in the line.
22 And he said where we come from, we shoot niggers for

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1 things like that.

2 Q Things like that referring to what?

3 A What happened was I was in line to punch
4 out. Sometimes when you're in line to punch out, you
5 could have a friend come up when everybody starts
6 shuffling towards the time card -- I mean time
7 clock. So what happened was I was in line waiting,
8 and Mr. Zigcraft and other people were behind me.
9 And Ladoris came up and stepped in front of me, which
10 is -- you know, it's okay. You can let your friend
11 in the line. It's not like elementary school. And
12 that's when Mr. Zigcraft made that remark. Then
13 everybody -- quite a few people heard him.

14 Q Did other people complain?

15 A Yes, they did.

16 Q A number of people complained?

17 A Yes. Well, I know another -- a man named
18 Richard Brown complained, electrician, because he was
19 really offended also.

20 Q And there was an investigation?

21 A Yes, there was that I know of because I was
22 called in for --

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1 Q But you don't know --

2 A -- questioning.

3 Q But you don't know the results?

4 A I don't know what the -- I never received
5 anything in writing or -- you know.

6 Q Did you file a complaint about that
7 comment?

8 A No, I didn't because I felt that --

9 Q That's okay.

10 A Okay. No, I didn't.

11 Q To make things move along now, I'll ask a
12 question, and if you can answer just the question I'm
13 asking, and then if we want to elaborate, we can work
14 on that.

15 A Yeah, but sometimes you have to explain.
16 It's not -- you understand? It sounds like I didn't
17 care about it.

18 Q I didn't think that at all, ma'am.

19 A Okay.

20 Q Did you file a complaint?

21 A No.

22 Q Other people filed a complaint?

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1 A Yes, they did.

2 Q And it was investigated?

3 A Yes.

4 Q And you don't know the results of the
5 investigation?

6 A No, I don't.

7 Q Stick with the interrogatory answers. If
8 you would look at interrogatory 13. We'd asked for
9 you to identify individuals who you think are
10 similarly situated to yourself, but who were treated
11 more favorably than you are. And you've given me a
12 bunch of examples of situations, and here you give a
13 general statement of people who would be treated
14 differently. Do you have names of anybody that you
15 would compare yourself to?

16 A Well, when I did this question, I thought
17 about someone who had a college degree and was trying
18 to be promoted. In that case I couldn't come up with
19 anybody because in my facility I'm the only one with
20 a college degree, including the managers, so I
21 couldn't compare myself to anyone on that. So then I
22 looked at it from the perspective that employees that

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1 started off as hourly wage employees per se, car
2 repairmen, electricians that wanted to move or
3 advance within the corporation, and that would be all
4 those that have made that initiative, and I didn't
5 put those names down.

6 Q And were those the names of the people that
7 you referred to before, the list of all the white
8 males?

9 A Yes. We could go -- that would be a
10 definite example because they are -- yes.

11 Q Other than those names, are there any other
12 people that you would identify specifically in the
13 2004, 2005 time frame who you would say I think were
14 treated more favorably than I've been because of race
15 or sex or in retaliatory -- for retaliatory reasons?

16 A Okay. Well, I'm going to say this. I know
17 there were some females in the office who were
18 promoted during 2004, 2005. So those names I would
19 have to know because usually what happens when a
20 position comes up, you don't know about it. The
21 person gets promoted. You don't know until somebody
22 says oh, guess who got the job, or guess who got so

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1 and so's job? So if I could actually have access to
2 that information, then I could give those persons'
3 names directly, but I don't have access to that.

4 Q And were those females you're referring to
5 African-American or white?

6 A White.

7 Q All white?

8 A Yes, Caucasian, because the women that have
9 been there, they've basically moved up. I know they
10 get -- you know, you can tell, when you go through
11 the office, that they're in this office, you know,
12 they're being promoted by -- you understand?

13 Q No, ma'am. I'm sorry. I don't.

14 A Okay. What I'm saying is, in other words,
15 when I first started there, say, for instance, Donna
16 Matlack, she was just a clerk, in other words, a time
17 clerk. She's now head of the vehicle department.

18 Q So in 23 years she's progressed?

19 A No. I've been there -- I've been at Bear
20 for 18 years, and I know of her being promoted at
21 least three times since I've been there.

22 Q I'm sorry. You were hired in 1983?

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1 A Yes.

2 Q And where did you first work when you
3 worked in the --

4 A I worked out of Perryville.

5 Q Okay. And then when you got the car
6 repair --

7 A I went to --

8 Q -- position --

9 A -- Bear, Delaware.

10 Q So for the time you've been in Bear?

11 A Yes. So in the time that I've been at
12 Bear, I know Donna Matlack has been promoted at least
13 three -- at least to three different positions right
14 there at the Bear facility. There's another Donna.
15 I don't know her last name right now. I'm drawing a
16 blank. And then if you want to go by coach cleaners,
17 females that came in as coach cleaners that are now
18 holding formal positions or have been promoted, those
19 persons.

20 Q Would that be like your foreman now?

21 A Yes, yes, that would be the same thing
22 because you go from a car repairman to a promotion.

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1 That is a promotion.

2 Q So she was an African-American female?

3 A Yes.

4 Q Who was a car repairman?

5 A Yes.

6 Q And was promoted to a --

7 A Yes.

8 Q -- foreman position?

9 A And what happened with that, Delisa did not
10 become a foreman until they kicked me off the
11 program. The following week they went to her and
12 said you want to be a foreman, and everybody knows
13 that. So they didn't do it out of here's your
14 opportunity per se. I guess they did it to make it
15 look like -- which is what it looks like -- yeah, we
16 do promote African-Americans. So if you actually go
17 back and look at the record, there has not been one
18 African-American promoted to a foreman's job since
19 then, and I know African-Americans who have applied
20 and been denied because they have come to me and
21 asked me what should they do for the record.

22 Q Thank you.

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1 A You're welcome.

2 Q So you see your current foreman's promotion
3 to foreman as not based on her ability or --

4 A She has told me that. She said Alvia, the
5 only reason why I have this job is because of you, so
6 I can't look at it any other way. And I don't have
7 anything against her, you know. It's a promotion.

8 Q Okay. Anybody else who you've come up with
9 who might be similarly situated?

10 A As far as being treated differently, yes.
11 Carol Kasoni, like I said, she was a coach cleaner,
12 and she's now a foreman, been a foreman. A young
13 lady named Marrieta, she also was a coach cleaner.
14 She's a foreman. That's all I can think of right
15 now.

16 Q But you testified earlier I think that you
17 haven't -- since 1998, you haven't applied for
18 another foreman position in Bear?

19 A No, I haven't. I said that, yeah. I don't
20 have any problems.

21 Q No, no. I just want to make sure we're
22 clear on that.

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1 A Okay. And also for the record it's not so
2 much as the opportunity there either because what
3 they claim they do is they acquire a foreman's list.
4 In other words, you say you want to be a foreman, and
5 they interview you, and they put you on the list, and
6 when a position comes available, that's when they
7 approach you. So no one has neither approached me
8 and said well, Ms. Lacy, you were a foreman at one
9 time for 66 days. Would you like to go back and try
10 it again? No one has done that either.

11 Q But you haven't expressed an interest in
12 doing that --

13 A No.

14 Q -- at Bear?

15 A I haven't seen any motive -- I haven't seen
16 any notices either as far as if you want to say new
17 list of foreman perspectives or candidates.

18 Q Let me show you a document we'll mark as
19 12.

20 (Lacy Deposition Exhibit 12 marked for
21 identification and attached to transcript.)

22 BY MR. VANDEUSEN:

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1 Q Ms. Lacy, do you recognize that document?

2 A Yes.

3 Q That was by Mr. McFadden?

4 A Yes. There's another page to this, isn't
5 there? It's a two-page, isn't it?

6 Q I don't believe I've seen --

7 A Because I think they were stapled to our
8 checks.

9 Q Well, let me ask the questions, and then we
10 can figure it out.

11 A Okay.

12 Q You recall receiving this, and you think
13 there's a second page?

14 A I thought it was.

15 Q That's okay. But you recall receiving it?

16 A Yes.

17 Q And Mr. McFadden is now in charge of the
18 Bear facility?

19 A Yes.

20 Q Do you have any idea what prompted this
21 interoffice memo from Mr. McFadden?

22 A From what I gather, he's making an

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1 introduction to the employees at Bear to let them
2 know that I'm here, and I'm going to be taking over
3 this position, which you know most companies do that
4 conducted to management.

5 Q Did it have any other significance to you
6 other than that?

7 A For me, no. I thought it was just a way of
8 -- I mean I seen them on the floor, and I think this
9 was -- I mean prior to the letter coming out, and I
10 think it was just a way for him letting everybody
11 know this is who I am, this is what I'm going to be
12 doing.

13 Q I'm not suggesting there's anything more to
14 it than that.

15 A Okay.

16 Q I just want to know if you think there's
17 anything more to it than that.

18 A No, I don't think there's anything more to
19 it. It's just telling his background and where he
20 came from. That's all.

21 Q And have you found -- is it your opinion
22 that he's doing a good job at Bear, or a better job?

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1 A Well, I'll say this. He's not harassed me
2 like Mr. Butler did. How's that? That's the way I
3 feel about it. I'm not being harassed.

4 Q I think that's fine. Thank you. Now I
5 would like to turn to dealing with some promotion
6 issues.

7 A Okay.

8 Q Well, before we do that -- lawyers always
9 do this. Before we do that, let me ask you a couple
10 more questions. Have we fully addressed all of the
11 issues about Bear in 2004, 2005 related to
12 harassment, hostile work environment, discrimination,
13 retaliation?

14 A Now, when you say all, do you mean that
15 I've exposed every and every little incident or
16 just --

17 Q Well, you've -- let me --

18 A Yes.

19 Q My job is to find out the basis for the
20 allegations that you've raised in your lawsuit.

21 A Okay.

22 Q The first half of today we talked about

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1 issues at Bear, the Bear facility.

2 A Yes.

3 Q And we've talked about how your
4 complaint -- you're raising claims that you've been
5 subjected to harassment, hostile work environment,
6 because of your race and your sex, and some
7 retaliatory behavior for your previous complaints
8 about discrimination.

9 A Yes.

10 Q Is that correct?

11 A Yes.

12 Q And we've been talking about time periods
13 2004, 2005. We've addressed a number of different
14 issues --

15 A Yes.

16 Q -- a number of different things that you
17 say here's examples of what I've gone through that
18 suggests discrimination, harassment, hostile work
19 environment.

20 A Yes.

21 Q Have we fully addressed all of those, or
22 are there more examples you would like to give me

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1 beyond those that you put in your information to the
2 EEOC, beyond those that you put in your interrogatory
3 answers, that you believe supports your claims with
4 respect to Bear, 2004, 2005?

5 A I think that covers the basis of them. I'm
6 not -- I'm pretty sure, but if I actually sat down,
7 there may be -- because I have some calendars at
8 home, and when things happen, I either mark and make
9 notation of the incident on my calendar or my time
10 card. And for a period of 2004, 2005, that's when I
11 did the time card thing where like if something
12 happened, I wrote on the back so and so, so and so,
13 because you can take the back copy home. The other
14 one stays with the company. But I tried for the most
15 part to list, you know, those items.

16 Q So is it your testimony that you have the
17 back parts of time cards at home --

18 A Yes.

19 Q -- that might have information on them to
20 support your claim?

21 A Yeah, there may be some incidents. I'm not
22 a hundred percent sure.

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1 Q In 2004 and 2005?

2 A Yeah, there may be some.

3 Q Well, I would ask you to -- that would be
4 responsive to the requests that we made for the
5 production of documents.

6 A Okay.

7 Q And I would ask you to look at those --

8 A Okay.

9 Q -- and supply copies of those to me.

10 A Yes, I will.

11 Q It's not my intent to have you come back
12 and be deposed more about those --

13 A I understand.

14 Q -- but in the event that there's things
15 there --

16 A That need to be --

17 Q -- that need to be addressed, I might have
18 to ask you to do that.

19 A Okay.

20 Q All right. So within the next week or so
21 if --

22 A Yes, yes.